



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Susan A. Booth
RR3 Box 480
Claremont, NH 03743

Re: Art's Market, Route 120,
Claremont, NH
UST #0-112173

**ADMINISTRATIVE ORDER
No. WMD 05-08**

October 19, 2005

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Waste Management Division to Susan A. Booth pursuant to RSA 146-C. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly-constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, New Hampshire.
2. Susan A. Booth is an individual having a mailing address of RR3 Box 480, Claremont, NH 03743.

C. STATEMENTS OF FACTS AND LAW

1. RSA 146-C authorizes the Department of Environmental Services ("DES") to regulate the installation, maintenance, operation, and closure of underground storage facilities. Pursuant to RSA 146-C:9, the Commissioner of DES has adopted New Hampshire Administrative Rules Env-Wm 1401 to set forth the requirements for underground storage facilities by "establishing criteria for registration and permitting, and standards for design, installation, operation, maintenance, and monitoring of such facilities."
2. Susan A. Booth is the owner of four underground storage tanks ("UST") at the Art's Market facility ("the Facility"), further identified as UST #0-112173, located on real property at Route 120, Claremont, NH ("the Property").
3. The UST systems are subject to the requirements of RSA 146-C and Env-Wm 1401.
4. On May 28, 2003, a Division inspector conducted a compliance inspection at the Facility and noted compliance deficiencies which were identified in a report (the "Report") subsequently mailed to the Facility owner.

5. The Report notified Ms Booth that compliance was to be achieved within 30 days of the date of the inspection and verification of compliance submitted to the Division within 45 days of the date of the inspection.
6. The Report also included a UST Facility File Review sheet which identified the deficiencies found at the time of the inspection. Among those deficiencies identified, the Division was not notified that the following were corrected within 45 days after the inspection was performed:
 - a. The permit renewal application and certificate of compliance has not been submitted to DES;
 - b. The permit was not posted;
 - c. Release detection by annual tightness testing, automatic tank gauging, groundwater monitoring, or soil gas vapor monitoring was not conducted;
 - d. The sacrificial anode systems for the two 4,000-gallon gasoline USTs (Tanks 1 and 2), one 3,000-gallon gasoline UST (Tank 3), and one 3,000-gallon diesel UST (Tank 4) were not tested within 6 months of installation and every 3 years thereafter by a qualified cathodic protection tester; and
 - e. The piping for Tanks 1 - 4 are not corrosion protected.
7. Correspondence from the owner dated September 14, 2003 states that "these 4 tanks each have less than 1 inch of liquid inside them and three of the pumps have been removed and the 3 tanks capped."
8. Env-Wm 1401.07(b) requires the owner of an underground storage facility to apply to the Division for a permit to operate by providing a certification of compliance signed by the owner which states that the facility is in compliance with all applicable statutory and regulatory requirements.
8. Env-Wm 1401.07(c) requires a permit to be displayed so it is visible and permanently affixed on the facility premises.
9. Env-Wm 1401.29(b) requires underground storage tanks without secondary containment and leak monitoring to conduct annual tightness testing, automatic tank gauging, groundwater monitoring, or soil gas vapor monitoring for release detection.
10. Env-Wm 1401.32(c) requires sacrificial anode systems to be tested within 6 months of installation and every 3 years thereafter by a qualified cathodic protection tester.
11. Env-Wm 1401.33(b) requires corrosion protection to be installed on regulated piping prior to December 22, 1998.
12. Env-Wm 1401.17(a) states that temporary closure of underground storage systems shall be accomplished by removing all substances from the tank so that no more than one inch of residue remains in the system.
13. Env-Wm 1401.17(c) states that a single wall underground storage system without secondary

containment and leak monitoring which has been temporarily closed for more than 12 months shall be permanently closed within 30 days in accordance with Env-Wm 1401.18.

D. DETERMINATION OF VIOLATIONS

1. Susan A. Booth has violated Env-Wm 1401.07(b) by failing to apply to the Division for a permit to operate.
2. Susan A. Booth has violated Env-Wm 1401.07(c) by failing to display and permanently affix a permit at the Facility.
3. Susan A. Booth has violated Env-Wm 1401.11(f) by failing to conduct annual tightness testing, automatic tank gauging, groundwater monitoring, or soil gas vapor monitoring for release detection for all four USTs.
4. Susan A. Booth has violated Env-Wm 1401.32(c) by failing to test the sacrificial anode systems for all four USTs within 6 months of installation and every three years thereafter by a qualified cathodic protection tester.
5. Susan A. Booth has violated Env-Wm 1401.33(b) by failing to protect the piping from corrosion for all four USTs.
6. Susan A. Booth has violated Env-Wm 1401.17(c) by failing to permanently close all four USTs in accordance with Env-Wm 1401.18, on or before October 14, 2004.

E. ORDER

Based on the above findings, DES hereby orders Susan A. Booth as follows:

1. **Within 15 days** of the date of this Administrative Order, notify the Division of the name of the International Code Council certified person that will be removing the four USTs.
2. **Within 45 days** of the date of this Administrative Order, permanently close all four of the UST systems in accordance with Env-Wm 1401.18.
3. **Within 30 days** of the date the samples to determine the presence of any contamination are taken submit the closure report in accordance with Env-Wm 1401.18(g)(10) to the Division.
4. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Lynn A. Woodard, P.E., Supervisor, Oil Compliance Section
DES Waste Management Division
P.O. Box 95

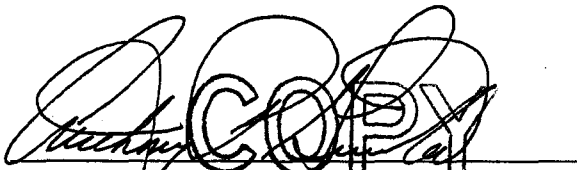
Concord, NH 03302-0095
Fax: (603) 271-2181
e-mail: lwoodard@des.state.nh.us

F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Waste Management Council by filing an appeal that meets the requirements specified in Env-WMC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve Susan A. Booth of the obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 146-C:10 provides for administrative fines and civil penalties, for the violations noted in this Order, as well as for failing to comply with the Order itself. DES will continue to monitor Susan A. Booth's compliance with applicable requirements and will take appropriate action if additional violations are discovered.



Anthony P. Giunta, P.G., Director
Waste Management Division



Michael P. Nolin, Commissioner
Department of Environmental Services

Certified Mail/RRR: 7000 1670 0000 0586 7898

cc: Gretchen R. Hamel, Legal Unit Administrator ✓
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
James Martin, DES Public Information Officer
Lynn A. Woodard, P.E., WMD UST Supervisor
Thomas R. Beaulieu, WMD UST Chief
cc: City of Claremont Health Officer